



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Data Terminal Service, Inc.

**File:** B-226320

**Date:** April 17, 1987

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### **DIGEST**

Protest of agency's cancellation of solicitation is dismissed because the protester is the third low bidder and has not raised a viable objection to the acceptability of the two lower bids and is therefore not an interested party under General Accounting Office Bid Protest Regulations.

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### **DECISION**

Data Terminal Service, Inc. (DTS), protests the Army Corps of Engineers' cancellation of invitation for bids (IFB) No. DACW47-86-B-0015 for preventive and remedial maintenance of microcomputers, terminals, printers, and tape backup units. DTS contends that the cancellation of the IFB after bid opening was improper as the agency has cited no compelling reason for its action. DTS contends that it is entitled to award under the IFB because it is the lowest responsive bidder.

We dismiss the protest.

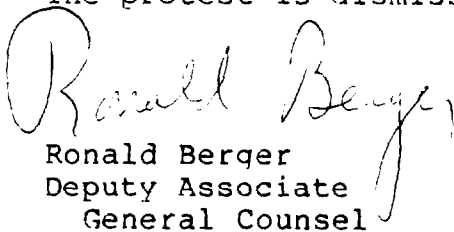
After the January 28, 1987, bid opening, the contracting officer decided to reject the nine bids received and cancel the IFB because the bid schedule failed to provide spaces for the quantity and the unit and the extended prices for one of the line items. The contracting officer was also concerned that the IFB did not include the latest Service Contract Act wage rate, and he thought that there was a need for discussion with the bidders concerning the 4-hour response time requirement. The agency contemplates requesting competitive proposals in its resolicitation of the requirement. We dismiss the protester's claim that the cancellation was improper because it is not an interested party.

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Our Bid Protest Regulations require that a protester be "an interested party" before we will consider its protest. 4 C.F.R. § 21.1(a) (1986). A protester is not an interested party if it would not be in line for award if its protest were upheld. Eastman Kodak Company, B-220646, Jan. 31, 1986, 86-1 CPD ¶ 113, aff'd upon reconsideration, B-220646.2, Mar. 24, 1986, 86-1 CPD ¶ 289. The agency argues that we should dismiss the protest on this basis as DTS was the third low bidder under the IFB and would not be in line for award if its protest were upheld. DTS, however, argues that it is an interested party because the two lower bids should be rejected because the bidders will not be able to perform at the price bid.

We agree with the agency because the fact that the two lower bidders may have submitted bid prices that will not cover their costs provides no basis for protest. Peter Gordon Co., B-224011, Sept. 15, 1986, 86-2 CPD ¶ 300. A bidder's ability to perform the contract at the price bid is a matter of responsibility for the agency to determine before contract award. K & P Inc., B-219608, Aug. 1, 1985, 85-2 CPD ¶ 121. Our Office will not review such determinations except in circumstances not relevant here. Accordingly, since DTS has not raised a viable objection to the acceptability of the two lower bids, we must view the protester as the third low bidder not in line for award. Therefore, it is not an interested party entitled to protest.

The protest is dismissed.

  
Ronald Berger  
Deputy Associate  
General Counsel